



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MAP/170630

PRELIMINARY RECITALS

Pursuant to a petition filed December 08, 2015, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03, to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance, a hearing was held on January 12, 2016, at Milwaukee, Wisconsin.

The issue for determination is whether the agency correctly determined the Petitioner's MAPP premium.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

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Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: [REDACTED], HSPC. Sr.
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. On March 30, 2015, the agency sent the Petitioner a notice, indicating that effective May 1, 2015, she was eligible for the MAPP program with a premium of \$1,311.18 per month. (Exhibit 2, pgs. 8-15)
3. On July 3, 2015, the Petitioner filed an on-line change report. (Exhibit 6)

4. On July 6, 2015, the agency sent the Petitioner a notice, indicating that she could become eligible for Medicaid for the period of June 1, 2015 through November 30, 2015, if she met a \$9,213.06 deductible. (Exhibit 2, pgs.16-18)
5. On October 1, 2015, the agency sent the Petitioner a notice, again indicating that she could be eligible for Medicaid, for the period of June 1, 2015 through November 30, 2015, if she met a \$9,213.06 deductible. (Exhibit 2, pgs. 21-25)
6. On December 1, 2015, the Petitioner submitted a new application for health care, requesting MAPP benefits. (Exhibit 2, pg. 6)
7. On December 3, 2015, the agency determined that the Petitioner would be required to pay a \$1,206 premium. (Exhibit 2, pg. 6)
8. The Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on December 8, 2015. Petitioner's appeal stated simply, "Premium to [sic] High". (Exhibit 1)

DISCUSSION

A hearing officer can only hear cases on the merits if there is jurisdiction to do so. There is no jurisdiction if a hearing request is untimely. An appeal of a negative action by a county agency concerning MA must be filed within 45 days of the date of the action. Wisconsin Stat. § 49.45(5); Income Maintenance Manual § 3.3.1. The date of action is generally the date a change takes effect or the date of notice, whichever is later.

Here the agency provided three notices.

The first notice stated date of action was May 1, 2015, the date a MAPP premium of \$1,311.18 became effective. Petitioner's appeal is untimely, with regard to that action, as it was filed in December 2015, well past the 45-day deadline.

The second and third notices, referred to a deductible determination. Giving the Petitioner the benefit of the latest potential date of action, October 1, 2015, her appeal of that determination is also untimely, as she needed to appeal by November 15, 2015, but did not do so until December 8, 2015.

Looking at the Case Comments (Exhibit 2, pg. 6) it appears that the Petitioner reapplied for benefits on December 1, 2015, and that on December 3, 2015 the agency determined that she needed to pay a MAPP premium of \$1,206 per month. Petitioner's appeal is timely, as to that action. However, there is no notice of decision regarding this determination in the agency's packet and there is no MAPP budget print out for December 2015. As such, the agency's determination cannot be upheld at this juncture, since I have no way of reviewing what the agency did.

As such, the matter will have to be remanded to the agency for a redetermination of Petitioner's MAPP premium, taking into consideration the countable medical expenses the Petitioner reported at the hearing and any countable medical expenses she has reported since that time.

If the Petitioner disagrees with the new determination, she can file a NEW appeal.

CONCLUSIONS OF LAW

Petitioner's appeal is untimely with regard to the notices of decision issued in March, July and October 2015.

Petitioner's appeal is timely with regard to the December MAPP premium determination.

The record is insufficient to uphold the agency's determination of Petitioner's MAPP premium as of December 2015.

THEREFORE, it is

ORDERED

That the agency re-determine the Petitioner's MAPP premium for December 2015 going forward, taking into consideration all reported medical remedial expenses. The agency shall issue to the Petitioner a new notice of decision advising her of its determination. The agency shall take all necessary steps to complete this task within ten days of this decision.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 19th day of February, 2016

\sMayumi M. Ishii
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on February 19, 2016.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability